

C & H Reforesters, Inc.,)	AGBCA Nos. 1999-172-2
)	1999-173-2
Appellant)	
)	
Representing the Appellant:)	
)	
J. William Bennett)	
J. William Bennett, P.C.)	
P.O. Box 1340)	
Cannon Beach, Oregon 97110)	
)	
Representing the Government:)	
)	
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DECISION OF THE BOARD OF CONTRACT APPEALS

December 3, 1999

Before WESTBROOK, Administrative Judge.

Opinion for the Board by Administrative Judge WESTBROOK.

These appeals arise out of Contract No. 52-03J1-9-0001 between C & H Reforesters, Inc., of Falls City, Oregon (Appellant) and the U.S. Forest Service (Respondent) for hand tree planting in the Rexford, Fortine, Libby and Cabinet Districts of the Kootenai National Forest, Montana.

On June 15, 1999 the Contracting Officer (CO) terminated Appellant’s right to proceed under the Rexford portion of the contract for default. The CO also assessed excess procurement costs in the amount of \$1,305.32. The decision cited Appellant’s failure to meet specifications in accordance with Part I, Section C Region1 Standard Specifications, C-5, Care and Protection of Trees when one or more employees of Appellant “stashed” trees in violation of the clause.

On July 7, 1999, the Board received Appellant’s Notice of Appeal in which Appellant elected expedited proceedings under Board Rules 12.1 and 12.2. The Board assigned docket numbers to the appeals of the termination for default and the appeal of the assessment of excess procurement costs. The target date for issuance of a decision was set as November 5, 1999.

The Board has jurisdiction of the appeals pursuant to the Contract Disputes Act, 41 U.S.C. §§ 601-613.

Appellant filed a Complaint. Thereafter, Respondent asked for a stay of the deadline to file the Answer and Appeal File pending settlement discussions. The stay was granted on August 23, 1999. Subsequently Respondent furnished the Board with a copy of an October 18, 1999 letter to Appellant forwarding a settlement agreement and two modifications for signature. The Appellant has now filed a Motion to Dismiss the appeals with prejudice. Respondent does not oppose the motion.

DECISION

The Board grants the unopposed motion. The appeals are dismissed with prejudice.

ANNE W. WESTBROOK
Administrative Judge

Issued at Washington, D.C.
December 3, 1999